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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/694,409

10/27/2003

Kurt R. Murray

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05/18/2006

BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/694,409	MURRAY ET AL.	
	Examiner	Art Unit	
	Justin M. Larson	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 12-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7, 8 and 11 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/2/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

A. Claims 1-6 are drawn to a tightening device comprising two threaded posts coupled at the second end of the frame member, adapted to be threaded through the tightening tab of the second clamp member, shown in Figures 3-5.

B. Claims 7-11 are drawn to a tightening device comprising a single threaded bolt that is passed first through the tightening tab of the second clamp member and is then threaded into the second end of the frame member, shown in Figures 7 and 8.

C. Claims 12-16 are drawn to a tightening device comprising a tensioning member located inside of the frame member that is operated by a tensioning wheel, shown in Figures 9-11.

During a telephone conversation with Doug Yerkeson on February 6th, 2006 a provisional election was made without traverse to prosecute the invention of B, claims 7-11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-6 and 12-16 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on February 2nd, 2004 is noted. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statement.

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Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 214. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 8 is objected to because of the following informalities: In the claim, a "first clamp" and "second clamp" are each mention twice. These should each be "first clamp member" and "second clamp member", respectively. There is only one clamp in the present invention that comprises first and second clamp members. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

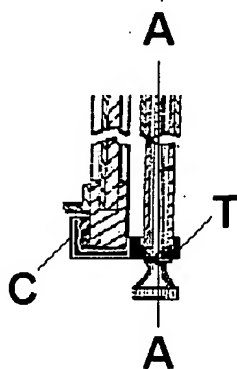
6. Claims 7, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (US 5,816,546) in view of Chandler (US 3,315,932).

Regarding claim 7, Miller discloses a weapon holder apparatus configured to be mounted between a first door frame and a second door frame of a vehicle, the weapon holder apparatus comprising a frame member having a first and a second end, a weapon holder coupled to the frame member, a first clamp member coupled to the first end of the frame member, the first clamp member being configured to engage the first door frame; a second clamp member coupled to the second end of the frame member, the second clamp member being configured to engage the second door frame, and a tightening mechanism that causes movement between the first and second clamp members. The tightening mechanism of Miller does not include a threaded insert coupled to the second end of the frame member, a tightening tab coupled to the second clamp member and coaxially aligned with the threaded insert, and a tightening bolt threadably received within the insert, the bolt being configured to drive the tab in movement relative to the insert as the bolt is rotated within the insert.

Chandler, however, also discloses a holder apparatus comprising an elongated frame member (16) having first (18) and second (C, see Figure below) clamp members respectively attached at first and second ends of the frame member, a threaded insert (66) coupled to the second end of the frame member, a tightening tab (T, see Figure below) coupled to the second clamp member and coaxially aligned with the threaded

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insert (along axis A, see Figure below), and a tightening bolt (62) threadably received within the insert, the bolt being configured to drive the tab in movement relative to the insert as the bolt is rotated within the insert in a direction causing movement toward the first clamp member (col. 3 lines 14-17). Note that Examiner is considering one half of the bracket (20) to be the tab and the other half to be the clamp member. There are currently no structural limitations in the claim that prohibit such an interpretation of the claimed structure.



While Chandler discloses a mirror attached to the elongated frame member rather than a weapon holder, Chandler and Miller both use an elongated clamping support to attach an article to a supporting surface. Examiner takes the position that there is no inventive step in replacing one clamping means with another known art equivalent clamping means. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the elongated clamping support of Miller with another known elongated clamping support, such as that taught by Chandler, since both clamping supports are equivalent in that each is capable of having a weapon holder attached thereto and can be secured between the window frames of a vehicle.

Regarding claim 8, the first clamp member (18) of Chandler is fixed to the first end of the frame member and the second clamp member (C, see Figure above) is slidably coupled to the second end of the frame member (via telescoping tube 52) to permit the distance between the first clamp member and the second clamp member to be adjusted.

Regarding claim 11, the tightening bolt of Chandler includes a threaded shaft (62) coupled to a head (64) where the threaded shaft is received within the threaded insert (66) and the head is selectively engageable with the tightening tab (T, see Figure above) for driving the tab in movement.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 7, 8, and 11 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 and 17-20 of U.S. Patent No. 5,816,546 in view of Chandler as applied in paragraph #6 above. Please refer to paragraph #6 above for the details of the obviousness found in the combination with the Chandler reference.

Allowable Subject Matter

9. Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Friday, 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

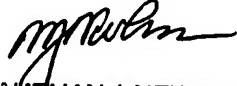
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML
5/8/06


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER